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The situation in Central America: procedures for the establishment of a firm and lasting peace and progress in fashioning a region of peace, freedom, democracy and development

United Nations Verification Mission in Guatemala

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 53/93 of 7 December 1998, by which the Assembly authorized the renewal of the mandate of the United Nations Verification Mission in Guatemala (MINUGUA), originally set out in resolution 51/198 B of 27 March 1997, in order for the Mission to continue to verify compliance with the peace agreements signed between the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca (URNG). By resolution 53/93, the General Assembly extended the Mission's mandate from 1 January to 31 December 1999 and requested me to submit recommendations with regard to MINUGUA after that date.

II. Background

2. The package of agreements signed by the Government of Guatemala and URNG in December 1996 included detailed commitments on political, legislative, social, economic, agrarian, ethnic, military and public security issues, which were consolidated into a comprehensive peace agenda. The Agreement on the Implementation, Compliance and Verification Timetable for the Peace Agreements (A/51/796-S/1997/114, annex I) stressed that international verification was essential to the implementation process and to strengthening public confidence in the consolidation of peace. Thus, the parties requested that MINUGUA, which until then had been limited to verifying the Comprehensive Agreement on Human Rights (A/48/928-S/1994/448, annex I) and the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples (A/49/882-S/1995/256, annex), expand its functions to verify all the signed agreements, and that the Mission's functions also comprise good offices, advisory and support services and public information. Furthermore, the parties requested that the duration of the mandate of MINUGUA be the same as that of the implementation timetable, namely, four years, until 31 December 2000.

3. The calendar for implementation agreed upon by the parties consists of three consecutive phases: the first phase, of 90 days' duration, covered, *inter alia*, the demobilization of URNG members and the establishment of commissions for the reform of the justice and electoral systems, as well as the promotion of indigenous rights and the modernization of the Legislative Branch; the second phase, which covered the remainder of 1997, emphasized social and productive investment, modernization and decentralization of the State, public administration reform, rural development, fiscal

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reform and the restructuring of public security and national defence. The third phase, 1998 to 2000, covers further development in the implementation of the outcome of the various commissions, and promotion of broad administrative and legislative reform.

III. State of implementation

4. In its resolution 53/93, the General Assembly considered my report of 24 August 1998 (A/53/288) and called upon the parties to implement fully the commitments they entered into under the Comprehensive Agreement on Human Rights and under the peace agreement, in particular, those contained in the third phase (1998–2000) of the implementation timetable. The Assembly also called upon the parties and all sectors of Guatemalan society to remain committed to the goals of the Peace Agreements, particularly during the electoral period, and to strengthen further the efforts towards consensus-building, reconciliation and development, with particular attention to the most vulnerable sectors of society.

5. MINUGUA has continued to submit periodic reports on compliance with the Comprehensive Agreement on Human Rights and the human rights aspects of the Agreement on Identity and Rights of Indigenous Peoples. On 10 March 1999, I transmitted to the General Assembly the ninth report of MINUGUA on human rights (A/53/853), which covered the period from 1 April to 31 December 1998. The Mission also prepared and issued in Guatemala two appendices to the report, including details of selected cases, and the verification of the first deployment of the National Civil Police. The report indicated that the positive evolution that had characterized the situation of human rights after the signature of the Agreement on a Firm and Lasting Peace (A/51/796-S/1997/114, annex II), had suffered a marked deterioration between July 1997 and December 1998. Serious violations, such as extrajudicial executions, threats and torture had occurred; there had also been a disturbing escalation in social conflicts related to the exercise of freedom of association and labour problems and an alarming increase in lynching and in the phenomenon known as "social cleansing". MINUGUA noted that, as far as the protection of human rights was concerned, persistent shortcomings in the system of public security and administration of justice had perpetuated impunity and had undermined the effective exercise of the right to security of person and to due process of law. Lack of progress in the investigation of the murder of Monsignor Juan José Gerardi in April 1998 had exemplified these shortcomings.

6. In accordance with the terms of the Agreement on the Establishment of the Commission to Clarify Past Human Rights Violations and Acts of Violence that have Caused the Guatemalan Population to Suffer (A/48/954-S/1994/751, annex II), on 25 February 1998, at a public ceremony in Guatemala City, the Commission for Historical Clarification handed over its report to the parties and to my representative on that occasion, Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs. The report accounts for a total of 42,275 victims, including men, women and children. Combining that data with the results of other studies of political violence in Guatemala, the Clarification Commission estimated that the number of people killed or disappeared as a result of the fratricidal confrontation reached a total of over 200,000. The specific recommendations formulated by the Commission are directed at encouraging peace and national harmony in Guatemala and, in particular, at preserving the memory of the victims, fostering the culture of mutual respect and observance of human rights and strengthening the democratic process. The Commissioners requested that I lend my support, within the framework of the mandate of MINUGUA, so that the recommendation may be implemented and their objectives achieved. As part of my regular reporting to the General Assembly on the Guatemalan peace agreements, I will provide information on progress in the implementation recommendations of the Clarification Commission.

7. While implementation of the Peace Agreements as a whole has suffered a number of difficulties in 1999, significant achievements have been registered in two specific areas. The first of these is that related to the status of women. The Women's Forum has been a catalyst for increased political participation of women, having become the main instrument for empowerment of women all over the country. In addition, the establishment in August 1999 of the Office for the Defence of Indigenous Women, in accordance with the terms of the Agreement on Identity and Rights of Indigenous Peoples, represents a step forward in improving the mechanisms for the protection of the rights of women and indigenous rights. The second area is that of the repatriation programme, which was brought to a close on 30 June 1999, with an approximate 43,000 returnees since 1984. A ceremony held in Mexico in July 1999, in the presence of the Presidents of Guatemala and Mexico, as well as Mrs. Sadako Ogata, the United Nations High Commissioner for Refugees, marked the completion of an important component of the Agreement on Resettlement of the Population Groups Uprooted by the Armed Conflict (A/48/954-S/1994/751, annex I). The 22,000 refugees who still remain in Mexico

have been offered the possibility of naturalization. What remains to be accomplished is the socio-economic reintegration of the returnees and the internally displaced population.

8. A detailed analysis of progress made in the implementation of the Peace Agreements since the adoption of resolution 53/93 will be presented shortly in my fourth verification report to the General Assembly, covering the period between July 1998 and August 1999. In view of the slowdown in the pace of implementation during the first half of 1998, as indicated in my report of 28 September 1998 (A/53/421, and Corr.1), the parties and the Commission to Follow Up the Implementation of the Peace Agreements agreed to focus efforts during the second half of 1998 on four priority issues: fiscal policy, the agrarian situation, the justice system and constitutional reforms. Some progress was achieved with respect to fiscal policy as a result of the commitment to reach a fiscal pact among the country's social and political forces; progress was also made with regard to the agrarian situation with the approval by Congress of a new Land Trust Fund jointly designed by the Ministry of Agriculture and indigenous and peasant organizations. With regard to constitutional reforms, on 16 October 1998, Congress adopted a package of constitutional reforms incorporating the main elements of the Peace Agreements. In accordance with constitutional procedures, on 16 May 1999, the package approved by Congress was put to a national referendum. Despite the fact that most political parties supported the constitutional package, it was not ratified by the electorate, who showed a high level of abstention (83 per cent of eligible voters). While failure to ratify the changes to the Constitution does not imply the interruption of the implementation process, it has created additional difficulties in important areas, such as the military and justice reform.

9. Notwithstanding this serious setback, on several occasions, notably at the Consultative Group Meeting for the Reconstruction and Transformation of Central America held in Stockholm in May 1999, the Government has expressed its determination to continue with the peace process. Similarly, many organizations and sectors of civil society have stressed the need to press on with the agenda of democratization contained in the Peace Agreements. The main political parties have expressed the view that the outcome of the referendum should not be interpreted as the termination of the peace agenda. A number of steps taken since the referendum show that there is indeed room for further progress in the implementation of the Agreements, even in the context of the campaign for the general elections that will take place in November 1999. In particular, it is to be hoped that two important bills to further the professionalization of the Judiciary can be approved by Congress before the end of 1999. Similarly, the Government should comply with its commitment to adopt a new military doctrine in accordance with the Peace Agreements, and to disband the current Presidential Military Staff, to be replaced by a civilian security body. It is also important that the Fiscal Pact Preparatory Commission be in position to conclude its work before the end of the year, so that the measures that the next Government will have to take in the fiscal area can benefit from the broadest possible social and political consensus.

10. I have received an invitation from the electoral authorities of Guatemala for the United Nations to participate as observers of the current electoral process. Following consultations with political parties, MINUGUA is actively verifying the observance of political rights within its mandate under the Comprehensive Agreement on Human Rights. Because of its broad deployment throughout the country and, in particular, in the former areas of conflict, the Mission is in a position to take prompt action following complaints by citizens or political parties. It is to be hoped that this capability for quick reaction will help to prevent polarization and political violence. While it has not thus far proved possible to modify the electoral system, as envisaged in the Peace Agreements, it is important that the first general elections held in peace time offer the broadest possible democratic guarantees. In the final phase of the campaign, the United Nations will coordinate its actions with the electoral authorities, the Organization of American States and other international monitors, in order to provide a comprehensive electoral observation.

11. As mentioned above (para. 2), the Peace Agreements signed in 1996 envisaged that the implementation process would last for a period of four years, from 1997 to 2000. The Agreements also provided for the establishment of the Follow-up Commission with authority to make adjustments to the initial timetable, as appropriate. The Commission will draft a detailed timetable for the year 2000 once the new Government takes office in January 2000. It will also have to decide whether some commitments must be rescheduled beyond the year 2000, as is the case with the commitment to reach a 12 per cent tax-to-gross domestic product ratio, which has been rescheduled to the year 2002. In any case, the volume of outstanding commitments to be implemented within the third phase (1998-2000) is considerable. As acknowledged by the Follow-up Commission itself, military, judicial, electoral and fiscal reforms that will require verification by MINUGUA are still outstanding. MINUGUA will also have to follow closely the establishment of several

institutions the creation of which has been recently approved by Congress or is expected to be approved shortly, such as the new Land Fund and the new Cadaster and Property Registry.

IV. Structure and staffing of the Mission

12. In my report of 24 August 1998 (A/53/288), I informed the General Assembly about the way in which the changes authorized in resolution 52/175 had strengthened the Mission's ability to carry out its complex mandate. On that basis, I did not propose further modifications in the staffing of the Mission for the period between 1 January and 31 December 1999. I continue to be satisfied that the configuration of the Mission is well suited to the multiple and varied tasks with which it is charged.

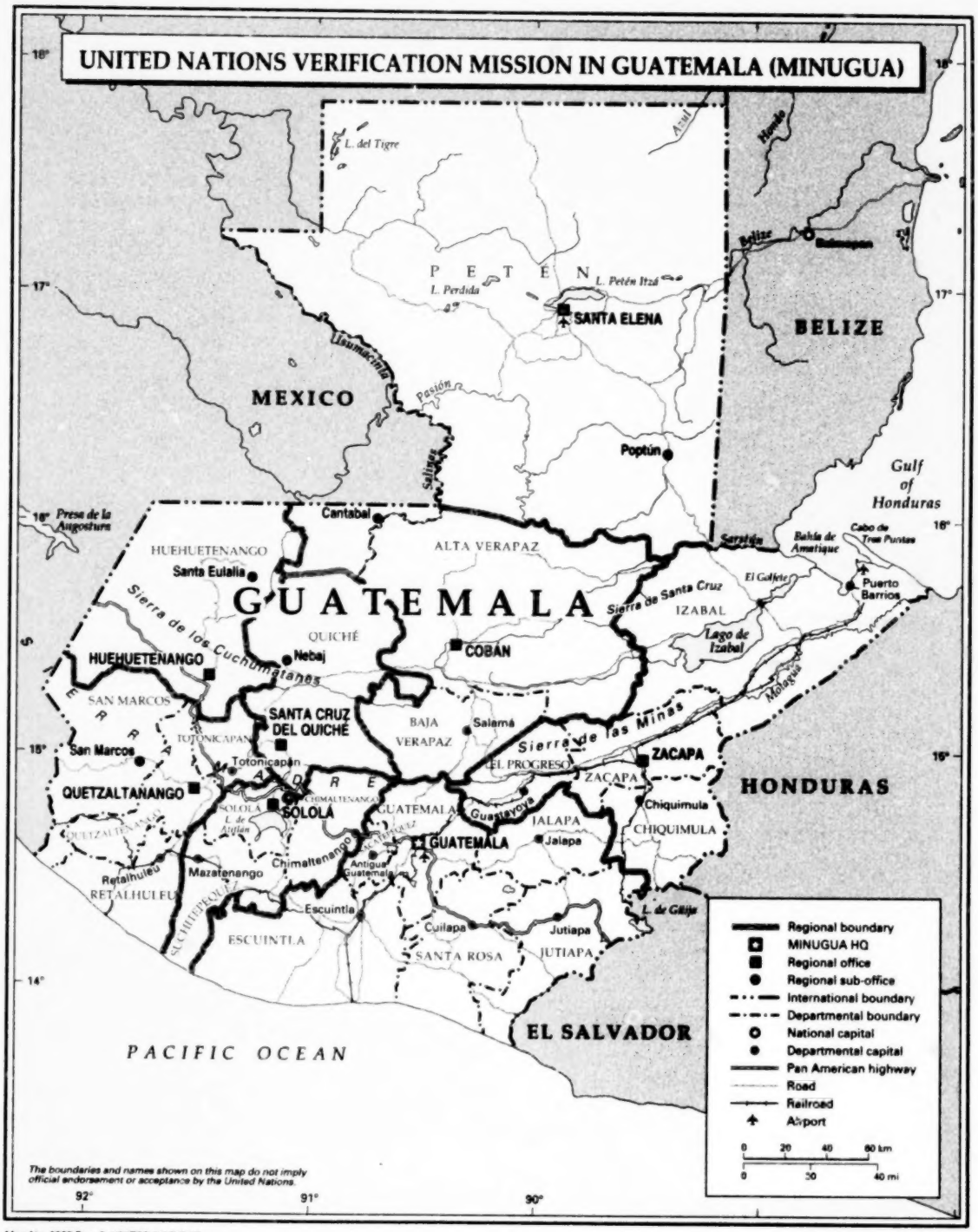
13. I am therefore proposing that only a modest change in the Mission's regional structure be made in the next year. The change, which would contemplate a geographical redeployment of the Mission's regional structure, not a change in geographical coverage, would result in a more flexible distribution of resources. Accordingly, the Mission would close three sub-offices (Chimaltenango, Escuintla and Fray Bartolomé de las Casas) and increase its capability for flexibility in the field by introducing an additional (third) mobile office to the existing two. The number of coordinators and political affairs officers (8 and 25, respectively) would remain unchanged. Overall, it is recommended that the Mission be maintained at its current strength for the period from 1 January to 31 December 2000.

14. The related financial requirements, inclusive of support staff and operational costs for the period from 1 January 2000 to 31 December 2000, are estimated at US$ 31.4 million, and include approximately $1.35 million for potential separation costs for 300 series staff in the event that the Mission closes at the end of 2000.

V. Observations

15. The Government of Guatemala and URNG stressed in the Peace Agreements that international verification was essential to the implementation process and to strengthening confidence in the consolidation of peace. In the period since the signing of the Peace Agreements, MINUGUA has made a vital contribution to maintaining the peace process at the forefront of the country's political agenda. It has also played a leading role, together with the other parts of the United Nations system and the international community at large, in a multifaceted exercise in peace-building. Important challenges still lie ahead, complicated by the delays in the implementation of the third phase contemplated in the Peace Agreements. The United Nations and MINUGUA stand ready to meet them and to work with the authorities to be elected in November 1999, as well as other sectors of society, to ensure that the country as a whole continues to advance towards democratization, the promotion of human rights and the implementation of the Peace Agreements.

16. Based on the considerations outlined in the preceding paragraphs, I recommend that the General Assembly authorize the renewal of the mandate of MINUGUA beyond 1 January 2000 until 31 December 2000, subject to regular reports on progress in the implementation of the commitments within the Peace Agreements, and that the Mission be provided with the resources referred to in the present report.



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